

GENERAL ORDERS, }
No. 132. }

WAR DEPARTMENT,
ADJUTANT GENERAL'S OFFICE,
Washington, May 16, 1863.

I.. Before a General Court Martial, which convened at the Camp of the 18th U. S. Infantry, August 15, 1862, pursuant to Special Orders, No. 11, dated Headquarters, 1st Division, Army of the Ohio, Tusculumbia, Ala., July 20, 1862, and of which Major FREDERICK TOWNSEND, 18th U. S. Infantry, is President, was arraigned and tried—

Private *Frank Kelly*, of Company "C," 3d Battalion, 18th U. S. Infantry.

CHARGE I.—"Conduct prejudicial to good order and military discipline."

Specification 1st—"In this; that *Frank Kelly*, a private of 'C' Company, 3d Battalion, 18th U. S. Infantry, did, on or about the 20th of June, 1862, in a loud voice, so as to be heard all over the Camp, use profane and obscene language in the presence of a number of officers and soldiers—such as: 'Kiss my arse, God damn you;' 'I'll be damned if Kelly can't whip any Captain, Sergeant, or man in the Camp;' 'Kelly never will obey any man unless he wants to,' or language of a like character; and, at the same time, did tell the officer of the day, 1st Lieutenant H. G. Radcliffe, 18th Infantry, as follows: 'Kiss my arse, God damn you,' and declared he could not be taken to the guard-house, and other language of a like import. All this at the Camp of the Detachment of the 16th and 18th U. S. Infantry, near Columbus, Kentucky."

Specification 2d—"In this; that the said *Frank Kelly* did, on or about the 20th of June, 1862, threaten Private Frederick Miller, of Company 'C,' 3d Battalion, 18th U. S. Infantry, with the following language, or language of a like import: 'God damn you, you stuck a bayonet in me last winter, and I intend to kill you for it.' All this at the Camp of the Detachment of the 16th

CHARGE II.—“Violation of the 9th Article of War.”

Specification 1st—“In this; that the said *Frank Kelly*, on or about the 20th of June, 1862, did go to the front of Captain George W. Smith's tent, of the 18th U. S. Infantry, and, taking hold of the tent pole, commenced addressing the officers in the tent with profane and disrespectful language, and on being ordered by his Company Commander, Captain John H. Knight, 18th Infantry, to let go the tent pole and go to his quarters, the said *Frank Kelly* refused positively to obey the order, and in the following words: ‘I’ll be damned if I will let go this tent pole, and you cannot make me do it,’ or language to that effect; and when his said Company Commander ordered 1st Sergeant Wm. M. Wallace to bring a guard, the said *Kelly* swore that he would not be taken, and would resist until he was killed. All this at the Camp of the Detachment of the 16th and 18th Infantry, near Columbus, Ky.”

Specification 2d—“In this; that the said Private *Frank Kelly* did, on or about the 20th of June, 1862, offer to strike, and draw back his arms to strike, his superior officer, the said Captain John H. Knight. All this at the Camp of the Detachment of 16th and 18th U. S. Infantry, near Columbus, Ky.”

Specification 3d—“In this; that the said Private *Frank Kelly* did, on or about the 20th of June, 1862, take hold of his superior officer, 1st Sergeant ‘C’ Company, 3d Battalion, Wm. M. Wallace, and strike him. All this at the Camp of the Detachment of the 16th and 18th Infantry, near Columbus, Kentucky, and while the Sergeant was in the discharge of his duty.”

To which charges and specifications the accused, Private *Frank Kelly*, Company “C,” 3d Battalion, 18th U. S. Infantry, pleaded as follows:

CHARGE I.

To the 1st *Specification*, “Guilty.”

To the 2d *Specification*, “Not Guilty.”

CHARGE II.

To the 1st *Specification*, "Guilty."

To the 2d *Specification*, "Guilty."

To the 3d *Specification*, "Guilty."

To the CHARGE, "Guilty."

FINDING.

The Court, having maturely considered the evidence adduced, finds the accused, Private *Frank Kelly*, Company "C," 3d Battalion, 18th U. S. Infantry, as follows:

CHARGE I.

Of the 1st *Specification*, "Guilty."

Of the 2d *Specification*, "Guilty."

Of the CHARGE, "Guilty."

CHARGE II.

Of the 1st *Specification*, "Guilty."

Of the 2d *Specification*, "Guilty."

Of the 3d *Specification*, "Guilty."

Of the CHARGE, "Guilty."

SENTENCE.

And the Court does therefore sentence "*That Private Frank Kelly, of 'C' Company, 3d Battalion, 18th U. S. Infantry, be shot to death at such time and place as the General Commanding may direct, two thirds of the Court concurring.*"

II.. The proceedings of the Court in the foregoing case have been approved by the proper Commanders, and forwarded for the action of the President of the United States, who directs that the sentence to "be shot to death," awarded Private Kelly, be commuted to imprisonment in one of the military prisons for the term of three months from the 11th day of May, 1863.

The General Commanding the Department of the Cumberland will designate the military prison to which the prisoner will be sent.

BY ORDER OF THE SECRETARY OF WAR:

E. D. TOWNSEND,

Assistant Adjutant General.